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Introduction and Opening Remarks

On December 8, 1998, the United States Department of Transportation (DOT) sponsored a one-day focus group session concerning the Transportation Infrastructure Finance and Innovation Act (TIFIA) Federal credit program. Participants included public officials, potential project sponsors, and members of the financial community. The focus group was part of a series of outreach sessions that DOT has sponsored to generate public input regarding the TIFIA Federal credit program. Appendix A contains the focus group agenda. Appendix B contains a list of participants.

Mr. Frederick "Bud" Wright, Director of the Office of Budget and Finance, Federal Highway Administration (FHWA), delivered introductory remarks. Mr. Wright welcomed the participants and asked them to introduce themselves. He then informed them that while this session would include presentations from DOT staff, an equal amount of time would be devoted to registering comments from the audience and responding to questions. He stated that the session would address both the rulemaking process and substantive matters concerning the program's implementation. He invited the audience to visit the TIFIA internet site (http://tifia.fhwa.dot.gov) and offer feedback on the information presented therein.

Mr. Wright then outlined the projected implementation schedule for the TIFIA credit program for fiscal year 1999. The DOT seeks to publish a Notice of Proposed Rulemaking (NPRM) in the *Federal Register* within the next several weeks, with a final rule to be published in April. Applications would be solicited in late May or early June and reviewed during the months of July and August. To the extent that this ambitious schedule can be met, the Secretary of Transportation would select projects during September, such that funds could be obligated prior to the end of fiscal year 1999.

Mr. Wright concluded his remarks by introducing Jim Preusch, Chief Financial Officer of the Port of Los Angeles and Treasurer of the Alameda Corridor Transportation Authority, and Wally Kreutzen, Chief Operating Officer of the San Joaquin Hills and Foothill/Eastern Transportation Corridor Agencies. He stated that these speakers were of special interest since the projects for which they are responsible — although predating TIFIA — offer prime examples of the impact of Federal credit on the financial feasibility of large-scale surface transportation investments.

TIFIA Trailblazers

Alameda Corridor

Mr. Jim Preusch began his discussion of the Alameda Corridor with a brief description of the project's structure and scope. The project covers more than 20 miles, includes both rail and highway components, and involves both new construction and rejuvenation of existing infrastructure. The project is sponsored by the Alameda Corridor Transportation Authority (ACTA), a joint powers authority created by the ports and cities of Long Beach and Los Angeles, California.

Mr. Preusch devoted most of his time to a review of the project's financial characteristics, including its use of a $400 million direct Federal loan. This loan was made available through a special appropriation passed by Congress in 1997. He closed his remarks with a comparison of the process by which ACTA received its Federal loan to the anticipated TIFIA process, and reflected on the characteristics of ACTA's approach that enabled it to assemble a sound financing package and to make a persuasive case to DOT.

Mr. Preusch noted that over half of the project's $2.4 billion in funding derives from borrowed funds. This borrowing includes the $400 million loan from DOT and over $1 billion in tax-exempt, taxable, and subordinate bonds. He stressed that this is a true project financing, in that all funds used to retire the debt will come from use fees and container charges levied on the railroads that use the Corridor and thus benefit directly from the new improvements. The Ports of Los Angeles and Long Beach will pay up to 40 percent of debt service as an advance to the railroads should the established use fees and container charges prove insufficient to meet debt service requirements.

Mr. Preusch discussed the history of ACTA's Federal loan and contrasted ACTA's experience to the TIFIA process. Whereas ACTA had to develop its own loan "application" with little guidance from DOT, TIFIA assistance would now be available through an established application and approval process. And while current applicants for TIFIA assistance will now enter the process already knowing the form of assistance that they are seeking, this was not the case for ACTA. In fact, when ACTA first sought Federal assistance, it focused solely on securing a sizable grant. Funding for a grant of this magnitude was simply not available, but DOT officials informed ACTA that a loan would be plausible. After negotiations with DOT and a full budgetary assessment (or "scoring") by OMB, ACTA received the first disbursement of its loan in 1997.

Mr. Preusch emphasized that part of ACTA's success in winning approval for the Federal loan was the project's demonstrated importance to international trade and its impacts on employment in all parts of the country. A full accounting of the project's impacts on traffic congestion, safety, the environment, and the regional economy was also critical to ACTA's ability to make a persuasive case to DOT.

Mr. Preusch further discussed the process by which ACTA sought and received preliminary ratings on its proposed debt issues. He said that the process of obtaining such ratings was very valuable, as it provided ACTA — and ultimately DOT — with a wholly independent assessment of the project's creditworthiness. The preliminary ratings helped move the loan forward in the budgetary scoring process, as did DOT's active role as a mediator with the Office of Management and Budget (OMB), which is responsible for developing such budgetary estimates.

Mr. Preusch closed his remarks with a summary of the project's features that he considered critical to the successful negotiation of the Federal loan. First, he said, the Alameda Corridor is a project of undisputed importance, generating real benefits for which users (in this case, railroads) are willing to pay. Second, the ports' decision to make their own equity contributions of $200 million apiece to the project indicated their commitment to the project. Finally, the Alameda Corridor enjoyed solid political backing, having assembled a unified coalition of support at the local, regional, and national levels.

Appendix C contains reproductions of the materials Mr. Preusch used in his presentation.

San Joaquin Hills and Foothill/Eastern Transportation Corridors

Mr. Wally Kreutzen opened his remarks by describing the structure and responsibilities of the San Joaquin Hills and Foothill/Eastern Transportation Corridor Agencies (TCAs). These agencies are California joint powers authorities, representing more than 15 jurisdictions in Orange County. The San Joaquin and Foothill/Eastern TCAs are responsible, respectively, for the design, financing, construction, and operation of the San Joaquin Hills and Foothill/Eastern toll corridors, both located in Orange County. Each TCA sunsets upon final repayment of its outstanding debt.

Both projects received contingent Federal lines of credit through special Congressional appropriations. As with the Alameda Corridor, experience gained through the financing of these projects helped pave the way for the TIFIA program. The TCAs' experience is noteworthy in its ability to illustrate a clear evolution in the capital markets' recognition of the value of a Federal credit instrument.

In 1993, the San Joaquin Hills toll road was the first surface transportation project ever to receive Federal credit support. The project's ambitious plan of finance included $1.2 billion in non-recourse senior- and junior-lien bonds. One credit rating agency rated the senior debt, assigning it the rating of BBB. The project also had a $120 million line of credit from the Federal government, pursuant to a special Congressional appropriation. However, the potential benefits of this credit instrument were clouded because of uncertainty over the TCA's ability to issue tax-exempt debt and simultaneously employ the Federal line of credit. The TCA's bond documents provided that the line of credit would not be drawn upon until its tax status was resolved. As a result, the rating agencies wholly disregarded the line of credit in performing their credit analyses, and the line of credit did not, therefore, provide any credit enhancement to the project.

By 1995, when the Foothill/Eastern toll road project was financed, Federal credit support began to play a more meaningful role in supporting the overall feasibility of project financing. Construction of the Foothill/Eastern toll road was financed with $1.5 billion in fixed and variable rate bonds. The project also obtained its own Federal line of credit (again in the amount of $120 million). By this time the TCA and its bond counsel had worked through the tax questions that had emerged during the San Joaquin Hills financing. In brief, by expanding the availability of the line of credit to cover such items as maintenance and operations, and by adjusting its maturity, the presence of the Federal line of credit was deemed compatible with the TCA's eligibility to issue tax-exempt debt. Because the tax issue had been resolved, this line of credit had a real impact on the markets' view of the project's creditworthiness. Three rating agencies assigned investment-grade ratings to the project's debt. Mr. Kreutzen reported that in each case, the line of credit was viewed favorably and as a meaningful credit enhancement.

By 1997, the true impact of Federal credit support was fully realized. At this point, the San Joaquin Hills TCA elected to refund a portion of its 1993 debt, retiring the costly junior-lien bonds. As part of structuring the refunding, the Federal line of credit was used as a true contingent source of funds, and thus brought the debt service coverage ratio up to about 1.3 times debt service. The refunding achieved investment-grade ratings from three leading rating agencies.

Mr. Kreutzen closed his remarks with a few perspectives on TIFIA's prospects for supporting additional projects. He noted that effectiveness will largely be determined by the details that govern the program's implementation. He noted the importance of proving to skeptics that credit tools are of genuine benefit in leveraging Federal resources with private capital, as witnessed by the TCAs and ACTA. Last, he stressed the importance of a strong partnership between project sponsors, the anticipated beneficiaries of the proposed project, members of the financial community, and DOT.

Appendix D contains reproductions of the materials Mr. Kreutzen used in his presentation.

TIFIA Implementation Process

Mr. Bryan Grote, Program Development Coordinator for the FHWA Office of Budget and Finance, elaborated on Mr. Wright's opening remarks concerning the preparation and issuance of program guidance, noting DOT's close work with OMB to determine the details of the program's structure. Mr. Grote divided his subsequent remarks into three sections: (i) a description of the organizational units within DOT with lead responsibility for determining the particulars of TIFIA's structure; (ii) the projected schedule for the TIFIA rulemaking; and (iii) the proposed process by which projects will be evaluated and selected for credit assistance.

Steering Committee and Working Group

Mr. Grote described the various groups within DOT who will spearhead the implementation of this new Federal credit program. All decisions concerning the program's structure must be approved by the DOT Credit Program Steering Committee. This committee is comprised of senior officials from various agencies within DOT, including the Assistant Secretary for Budget and Programs, the Director of the Office of Intermodalism, and the Administrators of the Federal Highway Administration (FHWA), the Federal Railroad Administration (FRA), and the Federal Transit Administration (FTA). The Steering Committee will be supported by a Working Group comprised of staff associated with each of the Steering Committee members. Together, these bodies will coordinate and monitor all policy decisions and implementation actions associated with this Federal credit program.

Rulemaking Process

Mr. Grote then reviewed the projected schedule for the development of preliminary TIFIA program guidance, briefly discussed by Mr. Wright. Following the publication of the Notice of Proposed Rulemaking (NPRM), there will be a formal comment period for the public. Comments will be addressed and incorporated, as appropriate, with a final rule expected to be published in April. The DOT plans to publish a program guide and the TIFIA application for Federal credit assistance at the same time that the final rule is published. Assuming the Administration can meet this aggressive timetable, the DOT would be in a position to obligate funds for fiscal year 1999 by the end of September.

Proposed Evaluation and Selection Process

Mr. Grote stated that DOT envisions an eight-step process for project evaluation and selection:

1. The project sponsor submits a project description to the DOT Credit Program Working Group. The Working Group determines the project's eligibility for assistance and identifies the relevant modal agency (FHWA, FRA, FTA) to handle the application.

2. The project sponsor submits a formal application to the selected modal agency.

3. Staff of the selected modal agency evaluate the application and arrange for a presentation by the project sponsor. The presentation is heard by representatives of the modal agency as well as members of the Working Group.

4. On the basis of its evaluation of written applications and presentations, the Working Group ranks the proposed projects and makes recommendations to the Steering Committee. The Steering Committee performs an independent review of the applications and makes recommendations to the Secretary of Transportation.

5. Upon approval by the Secretary of Transportation, the Steering Committee notifies the applicants of conditional selections and authorizes negotiations between project sponsors and modal agencies of legally binding term sheets and subsequent credit agreements.

6. The designated modal agency for each selected project develops and executes a term sheet, signifying a conditional commitment of credit assistance from DOT to the project sponsor, subject to receipt of a formal investment-grade rating and execution of a formal credit agreement. On the basis of this conditional commitment, the relevant modal agency arranges for FHWA to obligate the necessary funds for each project.

7. The DOT and the project sponsor finalize a formal agreement for credit assistance and the project sponsor obtains a formal investment-grade rating on its senior obligations.

8. The DOT disburses funds according to a negotiated schedule.

Mr. Grote noted that the process outlined above is considered tentative and viewed as a point of departure for further discussion and review. Mr. Grote encouraged participants to refer to the TIFIA internet site for updated implementation material, to be posted when available.

Conditions for Eligibility and Criteria for Selection

Mr. Max Inman (Chief of the Financial Management Division, FHWA), Mr. David Seltzer (Special Advisor to the Administrator, FHWA), and Mr. Bryan Grote facilitated a discussion on project eligibility and selection. In addition to presenting basic information, they served as panelists in responding to subsequent questions from the audience.

Conditions for Eligibility

Mr. Grote began the session with a review of the statutory requirements concerning eligible project types, Federal compliance requirements, and threshold and selection criteria.

Section 181(9) of title 23 of the U.S. Code (23 U.S.C. 181(9)) specifies the kinds of projects that will be eligible for assistance under TIFIA:

- highways (all projects eligible for Federal assistance under title 23);
- transit vehicles and facilities (all projects eligible for Federal assistance under chapter 53 of title 49);
- intercity bus vehicles and facilities;
- intercity passenger rail vehicles and facilities, including Amtrak and maglev; and
- publicly-owned intermodal freight facilities on the National Highway System.

Mr. Grote stated that he had received several questions concerning the potential eligibility of transfer facilities or improvements at an airport or seaport. The Working Group's current thinking is that such facilities would be eligible for credit assistance only if their primary purpose was related to surface transportation. Projects that aim principally to improve the infrastructure of the airport or seaport would not be eligible for TIFIA assistance.

A project's eligibility for TIFIA assistance is further conditioned on its compliance with specific Federal requirements, including the Civil Rights Act of 1964, the National Environmental Policy Act of 1969, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. In addition, highway projects must comply with the requirements spelled out in title 23 of the United States Code, transit projects must comply with the requirements of chapter 53 of title 49, and rail projects must comply with the requirements of section 5333(a) of title 49.

In addition to the above eligibility requirements, 23 U.S.C. 182(a) specifies five further criteria governing eligibility for assistance. Because these criteria are stated unambiguously in the legislation, they will be applied on a "pass/fail" basis.

1. <u>Inclusion in State Plans</u>. The project must be included in a State transportation plan to be considered for approval, and must be included in an approved State Transportation Improvement Program (STIP) to receive TIFIA credit assistance.

2. <u>Application Required</u>. All sponsors seeking TIFIA credit assistance must submit an application to the Secretary of Transportation.

3. <u>Cost Threshold</u>. A project must have eligible project costs that are reasonably anticipated to equal or exceed the lesser of $100 million or 50 percent of the amount of Federal-aid highway funds apportioned for the most recently completed fiscal year to the State in which the project is located. In the case of a project principally involving the installation of Intelligent Transportation Systems (ITS), eligible project costs shall be reasonably anticipated to equal or exceed $30 million.

4. Dedicated Revenue Sources. Project financing must be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources.

5. Evidence of Public Support. In the case of a project that is undertaken by a private entity, the project must be included in the State transportation plan and an approved STIP, as noted previously.

Also, the conditional approval for any amount of credit assistance will be contingent upon DOT's receipt of a preliminary rating opinion letter from at least one nationally recognized rating agency. The letter is to indicate that the project's senior debt obligations have the potential of being assigned an investment-grade rating. (A formal rating is, of course, also acceptable).

Selection Criteria

Assuming that a project meets these preceding eligibility and threshold requirements, 23 U.S.C. 182(b) specifies eight criteria that DOT shall consider in evaluating and selecting among eligible projects to receive TIFIA credit assistance. The eight criteria are:

1. the extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system;

2. the creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment;

3. the extent to which such assistance would foster innovative public-private partnerships and attract private debt or equity investment;

4. the likelihood that such assistance would enable the project to proceed at an earlier date than the project would otherwise be able to proceed;

5. the extent to which the project uses new technologies, including Intelligent Transportation Systems (ITS), that enhance the efficiency of the project;

6. the amount of budget authority required to fund the Federal credit instrument made available;

7. the extent to which the project helps maintain or protect the environment; and

8. the extent to which such assistance would reduce the contribution of Federal grant assistance to the project.

Discussion

Following this overview, the DOT panel opened the floor to questions and comments. Messrs. Inman, Seltzer, and Grote cautioned that their responses reflected the Working Group's current thinking and were subject to change pending completion of the formal rulemaking process.

Eligible Costs

Several members of the audience raised questions concerning those project costs that would be eligible for consideration in calculating the 33 percent limitation on TIFIA credit assistance.

One discussant asked whether financing costs, such as interest charges, would be considered eligible. Mr. Seltzer referred to 23 U.S.C. 181(1)(C), which states that "capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction" are eligible. He added that financing costs that are not capitalized, such as post-construction interest expenses and trustee fees, will not be considered in the cost base. One audience member stated that operating reserves, or reserves funded with current revenues, should be included as eligible project costs. The panelists said that they would consider this possibility.

The panelists next addressed the question of historical and/or acquisition costs. Mr. Grote stated that DOT was disinclined to consider costs incurred prior to the date of a project sponsor's application for credit assistance in calculating the 33 percent limitation. This comment prompted substantial debate, particularly in connection with TIFIA-assisted expansions of existing projects, such as toll roads. One audience member stated that since DOT expects to receive project revenues as TIFIA repayments, and since those revenues come from the entire system, historical project costs should indeed be considered eligible project costs. Mr. Grote responded that legislators envisioned TIFIA financing for new investments, and that including the cost of previously-financed facilities would be inconsistent with DOT's understanding of TIFIA's purpose.

The DOT panelists anticipated that the costs of a project expansion, renovation or new facility would be eligible, while original acquisition costs of an existing facility would not be eligible. To determine eligible costs for multi-phased projects, DOT plans to examine how a project is defined under the National Environmental Policy Act (NEPA).

Dedicated Revenue Sources

The panel next elaborated on the requirement for project costs to be repayable through "dedicated revenue sources."

Mr. Grote provided a general definition of "dedicated revenue sources," citing such levies as tolls, other direct user fees, special assessments, tax increment financing, and dedicated portions of fuel, sales, or other excise taxes pledged specifically to the project. He emphasized that any source that is subject to annual appropriations will not be viewed as a dedicated revenue source. This view is consistent with the capital markets' treatment of the risk basis attached to revenues whose availability is contingent on appropriation by, for example, a state legislature.

Mr. Grote also noted that debt owed on TIFIA credit instruments may not be backed by other Federal sources; no Federal funds, regardless of source, may be pledged to repay a TIFIA credit instrument.

Project Evaluation

Several audience members inquired as to DOT's anticipated process for ranking applicants for credit assistance. Mr. Grote explained that TIFIA does not provide any weights to be assigned to the eight selection criteria it specifies. Consequently, DOT wants to keep the selection process as flexible as possible within the bounds of the legislation.

Notwithstanding this goal of flexibility, DOT recognizes that it must establish some explicit standards to enable a credible ranking process. In this spirit, DOT may give preference to those projects for which the total Federal contribution, including both grants and credit, is less than 50 percent of eligible project costs.

Several audience members objected to this proposal. One member stated that this approach would put certain transit projects (notably, New Start projects) at a significant disadvantage. Mr. Grote replied that the Working Group had discussed the possibility of exempting such transit projects from this 50 percent preference, since it is rare for a New Start project to proceed with less than 50 percent of its funding deriving from Federal sources. However, he and the other panelists believed that some kind of limitation on total Federal contributions, or preference for reduced Federal contributions, would be desirable for other types of projects.

While there is nothing specifically in the TIFIA legislation that mentions favoring certain types of credit, Mr. Grote advised the audience that Federal credit policy generally supports preferential treatment for loan guarantees over direct loans. Mr. Seltzer added that this type of preference is consistent with an overall goal of building institutional lenders' familiarity with transportation projects, so that the Federal government's role in supporting private investment in transportation infrastructure would gradually be supplanted. Mr. Grote stated that DOT had not yet determined how, if at all, to implement a preference for loan guarantees.

Mr. Grote asked whether the audience would like DOT to take the diversity of the projects in its portfolio into account when evaluating proposals. One audience member thought that modal diversity would be desirable, but both he and several other members noted that achieving diversity would be difficult should the number of applications received be strongly skewed towards some modes versus others.

In the course of this discussion on ranking, the audience members overwhelmingly supported a highly flexible approach to evaluating projects. Several members of the audience urged that DOT refrain from assigning fixed weights to the eight selection criteria.

Multi-Year Commitments

The panelists and several members of the audience expressed concern about the possibility of a few large projects consuming the bulk of budget authority made available in any given year. One strategy to avoid this kind of undue concentration in the TIFIA portfolio would be the provision of a multi-year contingent commitment, whereby the Federal obligation to any one project could be spread over several years. Mr. Grote explained that under this approach, a project sponsor desiring a sizable loan, for example, could receive a letter of intent from DOT that would set aside a share of future-year budget authority to support multi-year loan commitments.

Some audience members favored such multi-year commitments, arguing that they would help large projects with extended construction periods and financing needs without denying a share of budget authority to other worthy projects. Other audience members expressed concern that multi-year commitments could still result in a small number of projects consuming a disproportionately large amount of budget authority, regardless of such consumption being spread over several years. These members strongly opposed any approach under which future years' budget authority could be claimed early on, before other project sponsors could have a chance to compete for it. They urged that, at a minimum, DOT constrain the amount of budget authority that could be reserved for any given year.

There was an additional suggestion that DOT should simply implement the TIFIA program before attempting to create a management process for multi-year commitments.

In a related question, one audience member asked whether DOT will impose a "scoring cut-off," that is, a maximum amount of budget authority that could be consumed by one particular project. The panelists noted that there is no "scoring cut-off" and that funding will ultimately depend on the supply of funds, the selection cycle, the types of applicants, the quality of the projects proposed, and the number of applicants. TIFIA is silent on the distribution of funding among individual projects or the amount of funding to be directed to specific types of projects.

Application Information

Mr. Bryan Grote and Mr. David Seltzer facilitated a discussion concerning DOT's development of an application for TIFIA assistance. Their remarks dealt with the anticipated content of the TIFIA application form as well as the milestones anticipated to trigger the applicants' submission of required documentation.

Content and Format

Mr. Grote stated that DOT is currently developing a standard application to ensure clear expectations and a fair process. The agency plans to make the form available via the TIFIA internet site.

Mr. Grote stated that the TIFIA application form will likely address the following items:

1. a discussion of the extent to which the project satisfies each of the threshold and selection criteria specified under TIFIA;
2. a detailed description of the project;
3. information on the applicant's structure;
4. historical financial information relating to the applicant; and
5. a financial plan for the project, including detailed pro formas.

Milestones

Mr. Grote apprised the audience of anticipated deadlines for supporting materials, including environmental records, credit ratings, and State planning documents.

<u>Environmental Requirements</u>

Background. As specified in 23 U.S.C. 182(c), each surface transportation project receiving credit assistance under TIFIA must adhere to the National Environmental Policy Act (NEPA) of 1969. Under NEPA, all Federally-assisted transportation projects must obtain a Record of Decision (ROD). The ROD certifies that the project poses no threat to the environment; it also serves as a de facto authorization to proceed.

Expected Timing. The TIFIA application form is likely to ask project sponsors to certify that they are currently seeking a ROD, but the ROD need not be in-hand as a precondition for application. All approvals of credit assistance will be contingent on subsequent receipt of a ROD, and no funds will be obligated in the absence of a ROD. Mr. Grote stated that all projects will be subject to NEPA's requirements, without exception.

<u>State Planning Documents</u>

Background. As specified in 23 U.S.C. 182(a)(1) and 182(a)(5), a project receiving TIFIA assistance must be included in the State transportation plan at the time of the initial project application. Before funds can be obligated for the project, it must be included in the approved STIP.

Expected Timing. To implement the aforementioned requirements, DOT is likely to require each sponsor to certify, as part of its initial application for TIFIA assistance, that the project is included in the State transportation plan. All approvals of credit assistance will be contingent on DOT's subsequent receipt of certification that the project is part of the approved STIP, and no funds will be obligated in the absence of such certification.

<u>Credit Ratings</u>

Background. As specified in 23 U.S.C. 182 (b)(2)(B), each applicant for TIFIA assistance must provide a preliminary rating opinion letter from at least one rating agency. The letter is to indicate that the project's senior obligations have the potential to achieve an investment-grade rating.

Expected Timing. The TIFIA application form will require each project sponsor to submit at least one preliminary rating opinion letter as part of its initial application for TIFIA assistance. All approvals of credit assistance will be contingent on subsequent receipt of one or more formal investment-grade ratings, and no funds will be disbursed in the absence of such ratings.

Discussion

Application Fees

Mr. Grote stated that DOT expects to require an application fee from all TIFIA applicants, the proceeds of which would be deposited into a financing account. The basic fee structure would consist of two separate charges: an initial application fee to originate the application and a credit processing fee for projects selected to receive assistance. The proceeds of any such fees would cover a portion of the costs to the Federal Government of soliciting project applications, evaluating those applications and negotiating credit agreements.

For fiscal year 1999, DOT expects to charge an application initiation charge but will not require any credit processing charges. For fiscal years 2000 and beyond, DOT may adjust the amount of the application initiation charge and institute a credit processing charge, based on experience gained during fiscal year 1999.

"Offset" Charges

Several potential project sponsors raised questions about the possibility of a third kind of fee, the proceeds of which would be used to offset the subsidy amount. Mr. Grote discussed DOT's perspectives on project sponsors' volunteering to cover all or a portion of the subsidy amount, so as to reduce the amount of budget authority consumed by a given project.

Mr. Grote explained that it was unlikely that DOT could or would accept voluntary contributions from project sponsors hoping to increase their chances for selection. He added, however, that DOT might consider levying an extra charge on approved project sponsors to offset the subsidy amount in the event that budget authority should prove insufficient to fund credit instruments for all qualified projects.

One member of the audience asked whether these "offset" charges could be used to support marginal projects that may not qualify otherwise. Mr. Grote stated that he doubted that DOT would consider any project that could not be selected on its own merits, even if the sponsor were to pay a fee equal to the entire subsidy amount.

Mr. Grote noted that any offset charges would not be viewed as eligible project costs for the purposes of calculating the maximum 33 percent credit amount of TIFIA assistance.

Rolling vs. Annual Application Process

Mr. Grote stated that the application process for fiscal year 1999 would revolve around strict due dates. Certain audience members stated that this approach was understandable for fiscal year 1999, but urged that DOT institute a rolling admissions process for fiscal year 2000 and beyond. There appeared to be a strong consensus among the audience in favor of rolling admissions. Mr. Grote cautioned that rolling admissions would limit DOT's ability to make head-to-head comparisons among applicants, meaning that the best projects would not necessarily be assured of selection during a given fiscal year. He noted that the Working Group was considering a semi-annual application process as a compromise for fiscal years 2000 and beyond.

Funding Mechanics

Mr. Peter Davis, Manager with the Economics and Quantitative Analysis Group of Ernst & Young LLP, facilitated an optional discussion session on TIFIA funding mechanics.

Mr. Davis provided background information on the structure of funding amounts made available under TIFIA. As noted by Mr. Davis, TIFIA establishes dual controls on the amount of funding made available. First, there is a limit on the annual credit assistance amount (i.e., the nominal amount that may be disbursed in the form of direct loans, lines of credit, or loan guarantees). Second, TIFIA places a limit on the annual subsidy amount (i.e., the amount of budget authority available to cover the expected default losses associated with the provision of credit instruments, net of any fee income).

Mr. Davis clarified that the annual credit assistance amount lapses if not awarded by the end of the fiscal year for which it is provided. In contrast, the annual subsidy amount remains available for obligation in subsequent years. As the program progresses, the lesser of these dual controls (credit assistance amount or subsidy amount) will ultimately control the amount of credit that may actually be provided.

Mr. Davis explained that DOT is developing a framework for evaluating the subsidy cost (or budget "score") for each project receiving TIFIA credit assistance. As part of this exercise, DOT has met with the major credit rating agencies to discuss alternative methods for analyzing credit risk and the validity of DOT's proposed approach. Each project will be scored individually against the budget authority available under TIFIA; there will be no subsidy cost assigned to the entire portfolio.

To facilitate this scoring process, it will probably be necessary for credit analysts to provide a rating not only on a given project's senior debt obligations, as required under TIFIA, but also on the overall project, including both senior and junior obligations (an issuer credit rating).

The need to input credit ratings into the subsidy model raises a question of timing. The ultimate measure of a project's credit risk will derive from the formal credit rating assigned to the overall project and senior-debt obligations. However, it is likely that DOT will have to obligate budget authority to cover estimated default losses well in advance of a project sponsor's receipt of a formal rating. To work within this timing constraint, it is likely that DOT will calculate preliminary subsidy estimates based on a conservative interpretation of the preliminary rating opinion letter. Once a formal rating opinion is available, DOT will adjust the subsidy amount accordingly. To the extent that the preliminary subsidy estimate proves to have been too conservative, DOT will deobligate excess reservations of budget authority accordingly.

Discussion

One audience member asked for Mr. Davis' opinion as to the rating agencies' willingness to rate start-up toll projects. Mr. Davis responded that the credit analysts with whom he and DOT had spoken had stated a willingness to do so.

An audience member asked whether direct loans, lines of credit, and loan guarantees would be treated similarly in assigning a subsidy cost to a project. Mr. Davis explained that the salient characteristics of an individual project, rather than the type of credit instrument, factored into the calculation of the subsidy cost. Thus, one would expect that a similar subsidy cost would be applied to a given project, regardless of whether that project were receiving a direct loan, line of credit, or loan guarantee, so long as the basic assumptions, such as the timing of disbursements and repayments, are held constant.

An audience member asked what happens to funds that accumulate from the subsidy reserves.

Mr. Davis replied that the U.S. Department of the Treasury retains unused funds to pay for cumulative losses over time. From DOT's perspective, such funds are not available for future lending activity.

An audience member asked what discount rate will be used to calculate the present value of expected losses. Mr. Davis replied that, by law, DOT will use the yield on comparable-term Treasury securities.

Mr. Davis concluded the session by affirming DOT's goal of developing a credit risk framework that is transparent and objective. Mr. Grote stated that DOT would like to make a "quick-score" model available to project sponsors. Using this model, any sponsor could enter financial information and generate a ballpark estimate of the subsidy cost likely to be assigned to a proposed project.